REMARKS

Applicants have canceled Claims 88, 91, and 112-123 without prejudice or disclaimer; and have amended Claims 87 and 89. Enabling support for the amended claims can be found in the application as filed, and therefore no new matter is contained in the amendments. Reconsideration of the present application and allowance of resulting Claims 87, 89, 90, and 93-98 is respectfully requested in view of the amendments and following remarks.

I. Claim Rejections under 35 U.S.C. § 112, first paragraph, enablement requirement

The Office Action has rejected Claims 87-91, and 93-98 under 35 U.S.C. §112, first paragraph as failing to comply with the enablement requirement.

Claims 88, and 91 have been cancelled without prejudice or disclaimer, and therefore the rejection is moot with respect to those claims. Applicants reserve the right to prosecute the subject matter in these claims in one or more continuation or divisional applications.

The September 23, 2004 Office Action states "the specification fails to provide an enabling disclosure for the claimed compositions and methods of making said compositions because methods of transplantation of neural tissue or other cells into the CNS or PNS are not routinely successful and the specification does not offer adequate guidance to enable one skilled in the art to practice the claimed invention to derive a therapeutic benefit in a disease animal. The specification teaches that the only use for the claimed compositions is for transplantation to produce a therapeutic effect but the specification does not adequately teach how to use the claimed method to produce such an effect. . . . ***While the specification discloses the use of human cord blood fractions that have been used either directly upon thawing (cord blood***

mononuclear cells) or treated in culture for a week with various trophic factors (BDNF, NGF, EGF+bFGF) prior to transplantation into a rat stroke model (pages 58-65), the claims cover the preparation of a great variety of cell compositions, including terminally-differentiated cells, which the specification does not teach how to use. . . . The specification fails to provide specific guidance for using the great variety of cell compositions covered by the claims, to provide a therapeutic benefit for the treatment of a disease or disorder." (Emphasis added).

Applicants respectfully traverse the rejection, however, for the sake of advancing the prosecution of the application, Applicants have amended Claim 87 to recite the various trophic factors listed on page 58 of the specification. These trophic factors were used to differentiate umbilical cord blood cells, which were then transplanted into a rat stroke model. Applicants reserve the right to prosecute the original subject matter in these claims in one or more continuation or divisional applications.

For at least the foregoing reasons, and considering the amendments to the claims, Applicants respectfully request reconsideration and removal of the rejection and allowance of Claims 87, 89, 90 and 93-98.

II. Claim Rejections under 35 U.S.C. § 112, second paragraph, definiteness requirement

The Advisory Action has rejected Claims 87-91, and 93-98 under 35 U.S.C. §112, second paragraph, as failing to comply with the definiteness requirement.

Claims 88, and 91 have been cancelled without prejudice or disclaimer, and therefore the rejection is moot with respect to those claims. Applicants reserve the right to prosecute the subject matter in these claims in one or more continuation or divisional applications.

In response to the Final Office Action, Applicants amended Claim 87 to recite "in comparison to an umbilical cord blood progenitor cell that has not been cultured in the presence of the differentiation agent." The Advisory Action states that "any progenitor cell within the cord blood can be used for the comparison. However, only a single or a few different types of progenitor cells will actually be differentiated to the cell of interest, by way of contact with an effective amount of differentiation agent for a period sufficient to differentiate the progenitor cell to a cell of interest." Given the limited disclosure of the specification, it is unclear how the skilled artisan would use unrelated cord blood progenitor cells for the claimed comparison."

In response to the rejection, Applicants have amended the reference state in Claim 87 to recite "an umbilical cord blood cell", and submit that the amendment overcomes the rejection.

For at least the foregoing reasons, Applicants respectfully request reconsideration and removal of the rejections and allowance of Claims 87, 89, 90 and 93-98.

The foregoing is submitted as a full and complete Response to the Final Office Action mailed September 23, 2004 and to the Advisory Action mailed January 28, 2005. No additional fees are believed due; however, the Commissioner is hereby authorized to charge any additional fees that may be required, or credit any overpayment to Deposit Account No. 19-5029.

This Response places all claims in the present application in condition for allowance, and such action is courteously solicited. The Examiner is invited and encouraged to

contact the undersigned attorney of record if such contact will facilitate an efficient examination and allowance of the application.

Respectfully submitted,

By: William L. Warren
Reg. No. 36,714

March 2, 2005

SUTHERLAND ASBILL & BRENNAN LLP
999 Peachtree Street, NE
Atlanta, Georgia 30309-3996
(404) 853-8000

SAB Docket: 20657-0005